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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,658	12/17/2001	Neil Brendon O'Leary	93214.034	1777

7590 08/13/2003

Paul F. Wille  
6407 East Clinton Street  
Scottsdale, AZ 85254

[REDACTED] EXAMINER

KRIZEK, JANICE LEE

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3652

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/022,658

Applicant(s)

O'Leary et al.

Examiner

Janice Krizek

Art Unit

3652



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 5-30-2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-10 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 6-10 is/are allowed.

6)  Claim(s) 1-5 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on 2-6-2003 is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1/2

6)  Other:

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1. The drawings are objected to because the reference numeral "75" has been used in Fig. 5 to designate a wheel and in Fig. 7 to designate a foot. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "a load sensor actuated by rotation of the platform as a load is applied", found in claim 1, is inaccurate and unclear. The load sensor is actuated in response to the weight of the platform, not the rotation of the platform. Also, it is not clear how the load is applied. To what structure is the load applied?

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hamann et al. Hamann et al. disclose an external lift 16 for a scooter 14 including post 330, platform 12 and load sensor 34. Re claims 2 and 3, note lock mechanism 300 of Hamann et al's. lift. Re claim 4, note roller 52 coupled to platform 12 which engages ramp 58 of Hamann et al's. lift as depicted in Fig. 8 of Hamann et al.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruno et al.

Bruno et al. disclose an external lift 50 for a scooter 70 including post 80, platform 500 and load sensor 222 (note column 9, lines 26-35 of Bruno et al.). Re claims 2 and 3, note lock mechanism 104, 220 of Bruno et al's. lift. Re claim 4, note roller 110 and ramp 104 of Bruno et al's. lift. Re claim 5, note the hold down 600 of Bruno et al's. lift.

7. Claims 6-10 are allowable.

8. Applicant's arguments filed May 30, 2003 have been fully considered but they are not persuasive.

With respect to the teachings of the applied references, applicant states that the load sensors disclosed in Bruno et al. and Hamann et al. are actuated in response to platform elevation rather than the claimed platform rotation. However, the load sensors of Bruno et al. and Hamann et al. are in fact actuated in response to both platform elevation and the weight of the platform during elevation.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Janice Krizek whose telephone number is (703) 308-2026. The examiner can normally be reached on Mondays through Fridays from 9:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached at (703) 308-3248. The central official fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-1113.

jk  
August 11, 2003

*Janice L. Krizek 8-11-03*  
Janice L. Krizek  
Primary Examiner  
Technology Center 3600